

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOSEPH PUSKARIC,

Plaintiff,

vs.

ROBERT PATTON, et al.,

Defendants.

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NO. CIV-15-991-HE

ORDER


Plaintiff, a state prisoner appearing through counsel, filed this § 1983 action alleging violations of his constitutional rights. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Bernard M. Jones for initial proceedings. Judge Jones has issued a Supplemental Report and Recommendation (the “Report”) recommending that defendant Bilbo’s motion for summary judgment be granted, that all claims against unidentified and unserved defendants should be dismissed, that plaintiff’s federal claim based on intentional infliction of emotional distress should be dismissed pursuant to the Prison Litigation Reform Act, and that, if plaintiff has stated state law claims for intentional infliction of emotional distress, the court should decline to exercise supplemental jurisdiction over any such claims after dismissal of all federal claims.

Plaintiff has failed to object to the Report. Plaintiff thereby waives his right to appellate review of the factual and legal issues it addressed. Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010); *see also* 28 U.S.C. § 636(b)(1)(C). Further, the court is in substantial agreement with the recommendations of the Report.

Accordingly, the court **ADOPTS** the Supplemental Report and Recommendation [Doc. #36]. Defendant Bilbo's Motion for Summary Judgment [Doc. #27] is **GRANTED**. Plaintiff's claims against unidentified and unserved defendants and his federal intentional infliction of emotional distress are **DISMISSED**. Finally, the court declines to exercise jurisdiction over any state claims for intentional infliction of emotional distress.

IT IS SO ORDERED.

Dated this 3rd day of November, 2017.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE